

Part G

Transportation and Motor Vehicles

Highways

Intercounty Connector

Senate Joint Resolution 8/House Joint Resolution 10 (both passed) urge the Governor to restart and conclude the process for an environmental study of the Intercounty Connector (ICC), a proposed 17-mile controlled access highway that would connect Montgomery County to Prince George's County. The proposed roadway is designed to alleviate traffic congestion on the Capital Beltway and secondary roads. In July 1997, a federal draft report was issued that evaluated potential environmental and socio-economic impacts of the proposed ICC, but no further action was taken.

Highway Dedications

Three bills were passed to honor Maryland's war veterans. *Senate Bill 142 (passed)/House Bill 111 (Ch. 32)* designate the Peninsula Expressway as the Vietnam Veterans Highway. The Peninsula Expressway, part of Maryland Route 157, is in the Dundalk area of Baltimore County and connects Dundalk with Sparrows Point. Under *House Bill 368 (passed)*, the Frederick County portion of Interstate Highway 70 will be designated the Korean War Veterans Memorial Highway.

Sidewalks – Cost Sharing

House Bill 130 (passed) increases the State's share of construction and reconstruction costs for sidewalks or bicycle pathways if the adjacent roadway is not being concurrently built or repaired. The bill increases the State share from 50 percent to 75 percent if the State Highway Administration determines that a substantial public safety risk exists and that construction would not otherwise occur due to insufficient

local funding. The cost-sharing formula would apply to sidewalks in “priority funding areas,” except for those in a “designated neighborhood,” which are eligible for a larger State match.

Maglev Task Force

In 1999, the United States Department of Transportation began a competitive process to select a site for a Magnetic Levitation Transportation System (Maglev). Seven projects were initially selected to participate in the competition. The Baltimore-Washington area is one of two finalists in the competition for federal funding. If the area is selected, federal aid would be available for a proposed 40-mile Maglev project linking Camden Yards in Baltimore and Baltimore-Washington International Airport to Union Station in Washington, DC. The Maglev would provide a 16-minute trip between Baltimore and Washington and could be expanded to provide service to other locations on the East Coast. The total cost is approximately \$3.8 billion, of which Maryland would be required to contribute \$500 million.

House Bill 1431 (passed) creates a task force to evaluate the development and construction of a Magnetic Levitation Transportation System. Some of the areas which the task force is to examine concerning Maglev include: (1) potential funding mechanisms; (2) possible private/public partnerships; (3) modifications to the procurement system; and (4) recommendations about establishing a State or multijurisdictional authority.

The Fiscal 2003 Budget includes language to study Maglev. The budget language study calls for a determination of what the State’s share of the construction cost could be, the financial and non-financial costs and benefits to the State and the local jurisdictions through which Maglev could travel, and what actions the Maryland Transit Administration has taken to address concerns of communities that would be affected by Maglev’s path. A more detailed discussion of the operating budget can be found under Part A - Budget and State Aid of this *90 Day Report*.

Financing

Senate Bill 533 (passed) allows the Maryland Department of Transportation (MDOT) to use a broader range of financing mechanisms by allowing MDOT to participate in the federal Grant Anticipation Revenue Vehicle Bonds (GARVEEs) program and the federal Transportation Infrastructure Finance and Innovation Act (TIFIA) program to fund transportation projects. GARVEEs are issued for projects to be funded with federal funds. The anticipated federal funds are pledged to secure bonds. TIFIA financing consists of loans, loan guarantees, and lines of credit for up to 33 percent of eligible construction costs from the federal Department of Transportation. A TIFIA-financed project must be of national or regional significance.

House Bill 1034/Senate Bill 740 (both failed) would have allowed a transportation facility to be privately held, constructed, improved, or operated if: (1) there is a public need for the type of facility; (2) the facility is compatible with local and State transportation plans; (3) the estimated cost is reasonable compared to similar facilities; and (4) the private operator's plans would result in a more timely or cost efficient operation, construction, or improvement. A private operator would have been allowed to charge user fees for facilities it operated or constructed. Any revenues in excess of a negotiated ceiling would have been distributed as provided in a contract between the private operator and the appropriate government entity.

Transit

Senate Joint Resolution 16/House Joint Resolution 23 (both failed) would have urged the Governor to direct the Secretary of MDOT to continue its study of the Metrorail Purple Line and to construct and fund the Purple Line segments from New Carrollton to Bethesda and from Branch Avenue to Alexandria. The Maryland Transit Administration is currently conducting an \$18.9 million study of the New Carrollton-Bethesda segment of the Purple Line, as well as a proposed 4.4-mile light rail line between the Bethesda and Silver Spring Metrorail stations. The federal government is financing most of the study.

Motor Vehicles

Drunk Driving

Federal Mandates and State Legislation

Since enactment of the federal Transportation Equity Act of the 21st Century (TEA-21), which established various criteria for the use and availability of federal highway funds for states based on enactment of certain state laws designed to combat drunk driving, Maryland has considered various legislative proposals dealing with drunk driving penalties and procedures. During the 2001 session, the General Assembly passed legislation which established increased criminal and administrative penalties for a violation of driving under the influence of alcohol or under the influence of alcohol per se at a blood alcohol content level of 0.08 grams per specific unit of blood or breath. Enactment of a ".08" law was a significant requirement for states seeking to qualify for federal incentive grants under TEA-21.

TEA-21 also established sanctions for the failure of states to pass what is commonly referred to as "repeat offender" and "open container" legislation. States that did not pass legislation to increase penalties for drivers convicted of serious drunk driving offenses more than once within a five year period would have 1.5 percent of

federal highway funds diverted from highway projects to safety enhancement projects annually beginning on October 1, 2000. The penalty would increase to 3 percent of highway funds as of October 1, 2002. States that did not pass legislation prohibiting possession of open containers of alcohol in motor vehicles, including possession by vehicle passengers as well as drivers, would be subject to federal fund diversion levels equal to those for failing to enact repeat offender laws.

By October 1, 2000, and October 1, 2001, Maryland had not complied with federal requirements for passage and enforcement of repeat offender and open container legislation. A combined total of \$7 million was transferred on each of those dates from highway projects to safety enhancement projects. Without enactment of repeat offender and open container legislation during the 2002 legislative session, the penalty increase scheduled for October 1, 2002, would have required that a total of \$14 million in federal highway funds would have to be transferred to safety enhancement projects for noncompliance with federal requirements.

Repeat Offenders

One requirement for the states under TEA-21 is to establish certain minimum criminal and administrative penalties for an individual convicted of a second or subsequent offense of driving while under the influence of alcohol. These penalty requirements include a mandatory period of driver's license or privilege suspension for at least one year, the impoundment or immobilization of the offender's motor vehicle, mandatory terms for imprisonment or community service, and an assessment of the offender's degree of alcohol or drug abuse, leading to appropriate treatment.

Senate Bill 352/House Bill 4 (both passed) require the Motor Vehicle Administration (MVA) to suspend for one year the driver's license of a person convicted of driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se more than once within a five-year period.

At the conclusion of the mandatory one-year suspension period, the bills also require repeat offenders to maintain an ignition interlock system on each motor vehicle owned by the offender (which prevents the operation of a motor vehicle based on an alcohol breath tester installed in the vehicle) for a period between three months and one year as a condition of license restoration or reinstatement. Notice and hearing requirements for the administrative sanctions are established under the bills, as well as additional license restrictions based on an inability to maintain an ignition interlock system due to financial hardship.

A person convicted of a violation of driving while under the influence of alcohol or under the influence of alcohol per se within five years of a prior conviction for one of those offenses is also subject to a mandatory minimum penalty of imprisonment, including inpatient rehabilitation or treatment or home detention, for at least 5 days or

subject to community service for at least 30 days. The court must also order the offender to undergo alcohol abuse assessment and to participate in an alcohol program if ordered by the court based on the results of the assessment. A person convicted of a third or subsequent offense within five years is subject to a mandatory minimum penalty of imprisonment for at least 10 days or community service for at least 60 days.

Open Containers

The federal law also tied highway funding to state enactments prohibiting the possession of any open alcoholic beverage container and the consumption of any alcoholic beverage in the passenger area of any motor vehicle located on a public highway or public highway right-of-way in the state.

Senate Bill 21/House Bill 3 (both passed) prohibit an occupant of a motor vehicle from possessing an open container that contains any amount of an alcoholic beverage or consuming an alcoholic beverage in the passenger area of a motor vehicle driven, stopped, standing, or otherwise located on a highway in the State. A violation by a vehicle occupant is a civil offense, subject to a maximum fine of \$25, which may be charged as a civil citation by a police officer. The bills establish procedures for prepayment of fines and District Court trial procedures to challenge the citation. The bills also clarify the existing prohibition against consumption of an alcoholic beverage while driving, to prohibit a driver of a motor vehicle from consuming an alcoholic beverage in a passenger area of a motor vehicle on a highway, which is a misdemeanor subject to a fine not exceeding \$500.

The prohibition does not apply to an occupant, other than the driver, of a motor vehicle that is designed and used to transport a person for compensation, including a bus, taxicab, or limousine, or the living quarters of a motor home, motor coach, or recreational vehicle.

Under the bills, an “open container” means any bottle, can, or other receptacle that is open, that has a broken seal, or from which the contents are partially removed. “Passenger area” means the area designed to seat the driver and any passenger while the motor vehicle is in operation or any area readily accessible to a driver or passenger while in seating positions. “Passenger area” does not include a locked glove compartment, the trunk of a motor vehicle, or for motor vehicles without a trunk, an area behind the last upright seat or other area not normally occupied by a driver or passenger.

Restrictions on Probation Before Judgment

House Bill 1366 (passed) expands the existing prohibition against the repeated use of probation before judgment in drunk and drugged driving cases. The bill prohibits a court from placing a defendant on probation before judgment for causing the death of or life-threatening injury to another person as a result of negligent driving while under

the influence of alcohol, while impaired by alcohol, or while impaired by combinations of alcohol, drugs, and controlled dangerous substances, if within the previous five years, the defendant was convicted of, or placed on probation before judgment for a drunk or drugged driving offense.

Vehicle Licensing and Registration

Notification to Selective Service Administration

Senate Bill 297/House Bill 26 (both passed) require the MVA to provide to the Selective Service Administration (SSA), identifying information about males under the age of 26 who apply to the MVA for a driver's license or identification card, if the applicant consents to the sharing of that information.

Federal law requires males between the ages of 18 and 26 who live in the United States to register with the SSA. According to SSA, seven states have enacted laws requiring Selective Service registration in order to obtain a driver's license. Under the bill, the MVA is required, subject to the consent of the applicant, to provide electronic records of the applicant's full name, address, date of birth, and Social Security number, if available, to SSA. The application form for the issuance or renewal of a driver's license or identification card shall contain a statement that the applicant has either already registered with SSA, is not registered and consents to the forwarding of information to SSA, or is not registered and refuses to consent to the forwarding of information. An applicant's refusal to consent to the forwarding of information to SSA may not be grounds for denying the applicant a driver's license or identification card.

Availability of License and Identification Card Photographs to Private Detectives

Under *Senate Bill 427/House Bill 211 (both passed)*, the MVA is authorized to make digital photographic images of individuals available to private detective agencies licensed by the State Police. Currently, those images are available to the court, law enforcement agencies, and the Child Support Enforcement Administration.

Chesapeake Bay Commemorative License Plates

The Chesapeake Bay license plate will be available for at least five more years as a result of *Senate Bill 51 (passed)/House Bill 117 (Ch. 34)*, which extend the program until July 1, 2007. In fiscal 2001, plate sales generated \$947,000, of which \$390,000 (40 percent) went to the MVA to cover expenses and \$484,000 went to the Chesapeake Bay Trust, a nonprofit organization designed to encourage public awareness and participation in the restoration and protection of the Bay.

Parking for Individuals with Disabilities

A number of laws have been enacted recently to attempt to reduce the inappropriate use of parking privileges that are reserved for individuals with disabilities. Some individuals who are not disabled, but have access to vehicles with disabled designations, have inappropriately used the privileges. *House Bill 343 (passed)* clarifies that only a person who is authorized to use a special registration plate or windshield placard issued to persons with disabilities may park a vehicle in a space reserved for the use of individuals with disabilities.

Senate Bill 112 (passed) requires that a person applying for disability registration plates or a parking placard due to losing the use of a foot, leg, hand, or arm provide medical certification to the MVA. It repeals the person's authority to self-certify the loss of use of a limb or appendage and, therefore, eliminates the need for MVA employees to determine if a person has actually lost the use of a limb or appendage. A person who has actually lost a limb or an appendage may still self-certify.

Staggered Driving Days

House Bill 1069 (failed) would have prohibited a vehicle to be driven on State highways on certain days based on its registration number. For example, a vehicle assigned a registration number ending in an odd number could only be driven on Mondays, Wednesdays, Fridays, and Sundays; a vehicle with a registration number ending in an even number could only be driven on Tuesdays, Thursdays, Saturdays, and Sundays. The MVA would have been authorized to exempt vehicles in cases of hardship.

New Resident Licensing

Under *Senate Bill 110 (passed)*, new State residents have 60 days rather than 30 to obtain a valid State license if they have a valid license issued by another state. The law will make the licensing requirement grace period consistent with the period in which new residents must register their out-of-state registered vehicle.

Commercial Driver's Licenses

Senate Bill 111/House Bill 322 (both passed) require a school bus driver to obtain a special school bus endorsement issued by the MVA for the person's commercial driver's license. Drivers will have to pass a medical examination and a skills test to demonstrate knowledge of proper safety procedures for loading and unloading schoolchildren, emergency exit use, and highway rail grade crossings, in order to obtain the school bus endorsement.

The bills prohibit an individual from driving a school bus unless the individual has a school bus endorsement on a commercial driver's license, which also serves as a passenger vehicle endorsement authorizing the driver to operate any passenger vehicle

with 16 passengers or more. The requirement applies only to individuals applying for a commercial driver's license to drive a school bus on or after October 1, 2002.

House Bill 428 (failed) would have made it a crime for commercial drivers to cause a death or life threatening injury by driving or attempting to drive in a manner that the driver knew or should have known violates various laws regarding operation of a commercial vehicle in an unsafe condition, hour restrictions, and federal motor carrier requirements. The bill would have also prohibited motor carriers from causing a death or life threatening injury by requiring or allowing a driver to operate a commercial vehicle in a manner that the carrier knew or should have known was in violation of the law. The bill proposed a series of fines ranging up to \$25,000 for a violation.

Rules of the Road

Leaving the Scene of an Accident

The General Assembly increased penalties for drivers who “hit and run” by leaving the scene of an accident where serious bodily injury or death may have occurred. **Senate Bill 345/House Bill 256 (both passed)** establish felony penalties for a driver of a motor vehicle involved in an accident resulting in the death or serious bodily injury of another and who leaves the scene of the accident, if the driver knew or reasonably should have known that the accident might result in the death or serious bodily injury of another.

Leaving such an accident resulting in a serious bodily injury is a felony subject to a maximum of five years imprisonment and a maximum fine of \$5,000, while the penalty for leaving the scene of an accident resulting in the death of another is a maximum of 10 years imprisonment and a maximum fine of \$10,000.

Senate Bill 59 (failed) would have authorized a driver to leave the scene of an accident if the driver reported the accident to law enforcement within one hour of the accident and if the driver reasonably believed that the accident was not caused by the driver, the accident did not result in injury or death, and leaving the scene of the accident was necessary to prevent imminent bodily harm to the driver. The bill was referred to as “Yvette’s law,” due to the carjacking, kidnapping, robbing, and murder of Yvette Beakes, a woman who was in a car accident in Baltimore and was attacked after remaining at an accident scene to assess damage.

Distracted Driving

Nationwide, the National Highway Transportation Safety Administration estimates that 25 to 30 percent of motor vehicle crashes are caused by driver distraction. A 1997 study published in the *New England Journal of Medicine* concluded that the distraction caused by phone use in motor vehicles quadrupled the risk of a collision

during the brief period of a call, a rate equivalent to the impairment caused by legal intoxication. However, a study conducted by the University of North Carolina Highway Safety Research Center found that cell phones ranked eighth in a list of distractions that caused crashes, below activities such as adjusting the radio, eating, and drinking.

According to Maryland State Police accident report data from January 1, 2000, through June 30, 2001, “failed to give full attention” was a contributing circumstance in 55 to 58 percent of accidents. In accident data compiled from October 2000 through June 2001, phone use while driving was listed as a contributing circumstance in 67 of over 40,000 accidents.

Last year, New York became the first state to enact a law prohibiting the use of hand-held telephones while driving. Several other states have considered similar restrictions. For the past few years, the General Assembly has considered restrictions on hand-held telephone use while operating a motor vehicle. *House Bill 31 (failed)* would have prohibited a driver of a motor vehicle from operating a hand-held telephone while the vehicle is in motion. The bill did not apply to: (1) a driver calling 911 or a public safety agency due to an emergency; (2) an employee of a utility company making a call in connection with emergency communications; or (3) an operator of an emergency vehicle acting in an official capacity. A violation would have been a misdemeanor, punishable by a fine of not more than \$500.

Speed Monitoring Systems

In 1997, the General Assembly passed legislation authorizing law enforcement agencies to mail a citation to the owner of a motor vehicle recorded running a solid red light by a traffic control signal monitoring system at an intersection (Chapter 315, Acts of 1997). In subsequent sessions, including the 2002 session, legislation was introduced that would allow the use of similar technology to identify speeding drivers. *Senate Bill 565/House Bill 140 (both failed)* would have authorized local governments and the State to issue citations or warnings to vehicle owners for speeding based on evidence collected by speed monitoring radar cameras. The bills also would have provided for a maximum civil penalty of \$100 for violations. Such violations would not have been moving violations, would not be placed onto the driving record of the owner or driver of the vehicle, and would not be considered in the provision of vehicle insurance.

Safe Driving Credits

Another bill considered by the General Assembly was intended to provide an incentive for drivers to maintain safe driving records. *Senate Bill 54 (failed)* would have directed the MVA to maintain a safe driving credit system under which a safe driving credit is awarded each calendar year to each individual whose driving record does not contain a suspension, revocation, conviction, or probation before judgment for serious vehicular offenses. The credits could be used only to offset an equivalent number of

points assessed against the individual after a conviction for a moving violation for which no more than two points could be assessed.

Use of Low Emission Vehicles in HOV Lanes

House Bill 884 (passed) expands the use of high occupancy vehicle (HOV) lanes to vehicles designated as inherently low emission vehicles (ILEVs). The bill requires the State Highway Administration (SHA) to place traffic control devices indicating that an HOV lane may be used at all times by ILEVs. The MVA, SHA, and the Department of State Police are directed to design a visible permit to designate a vehicle as an ILEV. The MVA is required to report to the General Assembly on or before January 1 of each year on the effect of the ILEVs on HOV lane operations. The bill, including the reporting requirements, will be effective until September 30, 2004.

Use of Electric-Powered Scooters on Roads and Sidewalks

House Bill 869 (passed) allows a person to operate a two-wheeled, electric-propelled motorized device, such as a Segway, on footpaths, bicycle trails, and sidewalks. If there is no sidewalk available to use, the bill authorizes the use of the device on roadways with a posted speed limit of not more than 30 miles per hour. The bill also prohibits the operation of the device at a speed greater than 15 miles per hour.

Equipment and Inspections

Child Booster Seats

In recent federal studies regarding child safety restraint requirements, the National Highway Traffic Safety Administration found that 71 percent of children's deaths and 66 percent of their injuries in car accidents could be eliminated if every child under the age of 15 used an appropriate restraint device. *Senate Bill 802/House Bill 699 (both passed)* expand the definition of "child safety seat" to include a child booster seat designed for larger children that is certified by the manufacturer to meet applicable federal safety standards. The bills also require that a person transporting a child in a motor vehicle registered in Maryland must secure the child in a child safety seat, if the child is under the age of six years, regardless of the child's weight, or if the child weighs 40 pounds or less, regardless of the child's age.

For vehicles registered out-of-state, but traveling Maryland roads, a transported child must be secured in a child safety seat if the child is under the age of four years, regardless of the child's weight, or if the child weighs 40 pounds or less, regardless of the child's age.

A violation is punishable by a fine of \$25. However, if the number of children in the vehicle exceeds the number of seatbelts suitable for securing a child either in a seat belt or in a child safety seat, there is no violation.

Salvage Vehicle Fees

House Bill 471 (passed) shifts the distribution of salvage vehicle inspection fees (\$180,000 in fiscal 2003) from the Vehicle Theft Prevention Fund to the auto theft unit of the Department of State Police to recover the costs of administering the salvage inspection program. The distribution was recommended by the Task Force on Motor Vehicle Salvage Inspection and Titling Practices, which concluded that the current fee revenue was not sufficient to provide overtime funding needed to eliminate the backlog of requests for inspections. State police conducted approximately 8,400 salvage vehicle inspections in 2000.

Emergency Vehicles

House Bill 387 (passed) allows the driver of an emergency vehicle of a fire department or rescue squad to flash or oscillate red and white lights or signal devices while standing or parked on the roadway at the scene of an emergency. The National Fire Protection Association standards recommend that white lights automatically turn off when the parking brake is set, a practice that many Maryland firefighters believe is dangerous to emergency personnel.

Business Regulation

Curbstoning – Regulation of Dealers

State and local law enforcement agencies have been struggling to combat a practice called “curbstoning” in which unlicensed persons sell used vehicles that are often stolen, untitled, or damaged and do not collect titling fees or taxes owed to the State. Experts estimate that 80 percent of the used cars advertised in the classifieds are sold by curbstoners. *Senate Bill 50 (passed)* decreases the number of vehicles (from five to three) that a person may sell within a year before being considered a vehicle “dealer,” which requires annual State licensing and subjects the person to various regulations regarding sales contracts, wholesale restrictions, surety bonds, location and service requirements, participation in vehicle shows, advertising practices, and other business practices.

The bill also increases the penalty for selling vehicles without a dealer’s license from a maximum fine of \$1,000 and six months in prison to a maximum fine of up to \$5,000 and one year imprisonment.